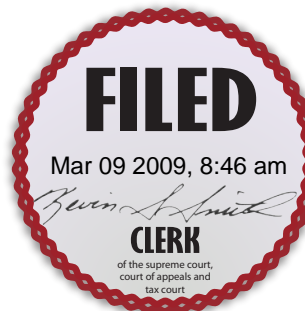


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

RUTH JOHNSON
Marion County Public Defender
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

ARTHUR THADDEUS PERRY
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JERRY LIGGIN,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0808-CR-748

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Linda E. Brown, Judge
The Honorable Louis Rosenberg, Magistrate
Cause No. 49F10-0804-CM-75184

March 9, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Following a bench trial, Jerry Liggin was convicted of Resisting Law Enforcement¹ as a class A misdemeanor. Liggin presents one issue for review: Is the evidence sufficient to sustain his conviction?

We affirm.

The facts most favorable to the conviction follow. On October 16, 2007, Officer Jerome Harrison of the Indianapolis Metropolitan Police Department was on patrol in the area of 34th Street and College Avenue, heading eastbound on 34th Street toward Carrollton Avenue, when he observed Liggin on a bike with no working reflectors or lights. Officer Harrison, who was in full uniform and in a marked police car, pulled up next to Liggin and spoke to him through an open window, informing him that it was against the law to be riding his bike without any working reflectors or lights. Liggin responded, “whatever”. *Transcript* at 9. As Officer Harrison started to get out of his vehicle, Liggin took off on his bike, heading east toward Carrollton Avenue. Officer Harrison proceeded to chase Liggin, while yelling at him at least three or four times to stop. Liggin did not stop, but continued toward Carrollton Avenue, where he turned southbound on Carrollton Avenue toward Fall Creek. Officer Harrison contacted control to report that he had someone running. Several officers responded, and Liggin was apprehended on Fall Creek. Officer Harrison went to the location where Liggin was apprehended and positively identified him as the individual who had fled from him. Liggin admitted to Officer Harrison that he ran from him because he was scared.

¹ Ind. Code Ann. § 35-44-3-3(a)(3) (West, Premise through 2008 2nd Regular Sess.).

On April 7, 2008, the State charged Liggin with resisting law enforcement as a class A misdemeanor. A bench trial was held on July 22, 2008, at the conclusion of which the trial court found Liggin guilty as charged. The trial court sentenced Liggin to 180 days, with 178 days suspended. The trial court also ordered Liggin to complete twenty-four hours of community service work.

Liggin argues that the evidence is insufficient to support his conviction. Our standard of review is well settled. When considering a challenge to the sufficiency of evidence to support a conviction, we respect the fact-finder's exclusive province to weigh the evidence and therefore neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the verdict, and “must affirm ‘if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.’” *Id.* at 126 (*quoting Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

To prove Liggin committed resisting law enforcement by fleeing, the State was required to prove beyond a reasonable doubt that Liggin (1) knowing or intentionally (2) fled from a law enforcement officer (3) after the officer had by visible or audible means indentified himself and (4) ordered him to stop. *See* I.C. § 35-44-3-3. In Indiana, ““an individual may not flee from a police officer who has ordered the person to stop, regardless of the apparent or ultimate lawfulness of the officer’s order.”” *Cole v. State*, 878 N.E.2d 882,

886 (Ind. Ct. App. 2007) (*quoting Dandridge v. State*, 810 N.E.2d 746, 749 (Ind. Ct. App. 2004), *trans. denied*).

Here, Officer Harrison testified that he was driving a marked vehicle and was in full uniform when he approached Liggin and informed Liggin that he was breaking the law by riding a bicycle that did not have working lights or reflectors. As Officer Harrison started to get out of his vehicle, Liggin rode away, ignoring Officer's Harrison's numerous commands to stop. This evidence is sufficient to sustain Liggin's conviction for resisting law enforcement by fleeing. *See Yowler v. State*, 894 N.E.2d 1000 (Ind. Ct. App. 2008) (evidence sufficient to sustain conviction for resisting law enforcement by fleeing where defendant continued to walk away from officer, who was in full uniform, after the officer ordered him to stop).

In arguing that the evidence is insufficient to support his conviction, Liggin relies on his own testimony that as he rode away from Officer Harrison, he put on headphones and did not hear Officer Harrison's commands to stop. In rebuttal, Officer Harrison testified that Liggin did not have headphones on when he first approached him and that he did not see Liggin with headphones on as he rode his bicycle away. Liggin is asking this court to give credit to his version of events and to weigh conflicting evidence in his favor. This we will not do on appeal. It is for the trier of fact to resolve conflicts and to decide the credibility of witnesses. Here, the trial court expressly stated that it found Officer Harrison's testimony to be credible and that it did not find Liggin's testimony to be credible. We will not second-

guess this determination. We therefore conclude that the evidence is sufficient to sustain Liggin's conviction for resisting law enforcement by fleeing.

Judgment affirmed.

MAY, J., and BRADFORD, J., concur